

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SYLVIA BENAVIDES,

Plaintiff,

v.

TEXAS DEPARTMENT OF FAMILY AND  
PROTECTIVE SERVICES,

Defendant.

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1:20-CV-1218-RP

**ORDER**

Before the Court is the report and recommendation of United States Magistrate Judge Susan Hightower concerning Defendant Texas Department of Family and Protective Services’ (“DFPS”) Motion to Dismiss Plaintiff’s Second Amended Complaint, (Dkt. 16). (R. & R., Dkt. 26). In her report and recommendation, Judge Hightower recommends that the Court grant the motion and grant Plaintiff Sylvia Benavides (“Benavides”) leave to file an amended complaint. (*Id.* at 8). DFPS timely filed objections to the report and recommendation. (Objs., Dkt. 28 ). Benavides then filed a response. (Resp., Dkt. 29).

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because DFPS timely objected to the report and recommendation as to Benavides’s failure to accommodate claim, disability discrimination claim, and request for leave to amend, the Court reviews those portions of the report and recommendation *de novo*. Having done so, and acknowledging that the objections as to the failure to accommodate and discrimination claims do not implicate the ultimate recommendation to grant DFPS’s motion, the Court overrules DFPS’s objections and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Susan Hightower, (Dkt. 26), is **ADOPTED**. DFPS's motion, (Dkt. 16), is **GRANTED**.

**IT IS FURTHER ORDERED** that Benavides's request for leave to amend her complaint is **GRANTED**.

**IT IS FINALLY ORDERED** that Benavides shall file her third amended complaint no later than **April 13, 2022**.

**SIGNED** on March 14, 2022.

A handwritten signature in blue ink, appearing to read "R. Pitman", is written above a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE